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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26112; Notice No. 90-2]
RIN 2120-AD26

Sole Radio Navigation System; Minimum Standards for Certification

AGENCY: Federal Aviation Administration (**FAA**), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); withdrawal.

SUMMARY: The Federal Aviation Administration (**FAA** or ``we'') is withdrawing a previously published ANPRM that sought information on the minimum standards for certification of a sole radio navigation system in aircraft conducting flight under instrument flight rules (IFR) en route, and in terminal area operations including nonprecision approach, in controlled airspace in the United States. The proposal was in response to a requirement of the Airport and Airway Safety and Capacity Expansion Act of 1987. We are withdrawing the document because the navigation issues set forth in the ANPRM have been superseded by new technology, and Flight Standards Service of the **FAA** is drafting a notice of proposed rulemaking (NPRM) which will encompass those issues that remain relevant and update the terminology of our general operating and flight rules.

EFFECTIVE DATE: The advance notice of proposed rulemaking published at 55 FR 2206 is withdrawn on June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Bonnie Fritts, ARM-28, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7037.

SUPPLEMENTARY INFORMATION:

Background

On January 22, 1990, the **FAA** published ANPRM No. 90-2 (55 FR 2206) proposing amendments to 14 CFR part 91, in response to Section 310(c) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100-223), which required that--

Not later than September 30, 1989, the Administrator shall establish by regulation minimum standards under which a radio navigation system may be certified as the sole radio navigation system

required in an aircraft for operation in airspace in the United States.

The ANPRM invited public comment to aid the **FAA** in implementing the provisions of the law. The comment period closed on May 22, 1990.

Discussion of Comments

Aviation industry groups, manufacturers of navigation systems, and interested individuals responded to the notice with a total of 19 comments. Commenters agreed on the need for minimum standards for certification of navigation systems. While commenters were generally supportive of our proposed rulemaking, many requested additional enhancements to the proposal.

Air Transport Association (ATA) and Aerospace Industries Association (AIA), as well as individuals associated with the aviation industry, expressed concerns that satellite-based navigation systems, and other viable non-radio systems, be addressed by the standards. The aviation community's reliance on ground-based navigation systems was being encroached upon by new technologies, such as the Global Positioning Satellite (GPS) navigation system, providing more efficient use of airspace and an increase in flight safety. Geostar Corporation and Litton Aero Products, manufacturers of navigation systems, also shared this concern that **FAA** recognize new technologies and not artificially limit technology growth with overly rigid standards. Years have passed since these comments were made and growth in navigation systems technology has continued to even further surpass radio navigation systems.

Several individual commenters expressed their desire that any system resulting from the minimum certification standards be affordable for individual pilots who are without the financial support of large organizations.

National Business Aircraft Association and ATA requested that **FAA** task the Radio Technical Commission for Aeronautics with developing the necessary documentation for the minimum standards.

Air Line Pilots Association expressed general support for the rulemaking proposal.

Commenters from all categories stated that definitions of terms in the ANPRM were not clear, some suggesting alternative definitions or the addition of terms like ``testability,'' ``sole means navigation system,'' and ``precision approach.'' Aircraft Owners & Pilots Association (AOPA), Air Traffic Control Association, and AIA took issue, in particular, with the phrase ``near 100%'' in relation to reliability and availability measurement, requesting a more specific measurement to avoid confusion.

AIA and AOPA stated that results of **FAA** studies should be shared with readers and requested that those results be included in the final rule.

One individual commented that a particular proposed passage, Sec. 91.205(g)(2)(i), was not necessary because operations ``are already far too burdened by unjustified requirements.''

The Illinois Department of Transportation asserted the GPS and Loran-C systems should be allowed to be used in ``fly-direct'' configuration, rather than ``along the route to be flown,'' as the wording of Sec. 91.33 (new Sec. 91.205 (g)(2)(ii) states. While this comment and the preceding comment had relevance when originally submitted, they now serve as another illustration of justification for withdrawal--the regulatory action that has been superseded by events.

The ANPRM which we are withdrawing identifies the pertinent section of the Code of Federal Regulations most commonly as Sec. 91.33 (new Sec. 91.205). From today's perspective, Sec. 91.33 has not existed in

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the Code of Federal Regulations in other than a reserved capacity for over ten years. Even in these two specific comment references, the ``new Sec. 91.205(g)(2)'' has long since disappeared from the Code of Federal Regulations. Issues have likewise disappeared, or evolved to find relevance in today's new technologies. The passage of time, along with its accompanying growth in technology, has transformed once valid concerns into obsolete issues. The remaining issues addressed in the ANPRM that have retained their relevance will be encompassed within an NPRM currently being drafted by **FAA**.

In that NPRM, the **FAA** will propose to update not only 14 CFR part 91, but also parts 1, 95, 97, 121, 129, and 135, to allow for the use of the additional capabilities and developing technologies of navigation systems that are other than ground-based. The use of ground-based navigation systems often results in less than optimal routes or instrument procedures and an inefficient use of airspace. The proposal, under development in a separate action, would allow for the use of Area Navigation (RNAV) systems to provide greater flexibility in defining routes, instrument procedures, and airspace design, along with an associated increase in flight safety.

Reason for Withdrawal

A considerable amount of time has elapsed since the ANPRM was published. Issues set forth in the ANPRM have been supersede by new technology and the development of operating concepts that are being addressed in joint **FAA**/industry working groups. The Flight Standards Service of **FAA** is drafting in NPRM that will update the terminology in 14 CFR part 91 to address, among other things, the issue of satellite-based navigation systems.

Conclusion

The **FAA** has determined that this regulatory course of action is no longer necessary. Accordingly, Notice No. 90-2, published at 55 FR 2206 on January 22, 1990, is withdrawn.

Issued in Washington, DC, on May 24, 2001.

Nicholas Sabatini,

Director, Flight Standards Service.

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